IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

S S S RAPLH LOUIS PLATT, S S S Petitioner, S S C.A. NO. C-07-103 V. S NATHANIEL QUARTERMAN, S S S S Respondent. S S S

ORDER

On this day came on to be considered Petitioner Ralph Louis Platt's application to proceed in forma pauperis with respect to an appeal of the above-styled action to the United States Court of Appeals for the Fifth Circuit (D.E. 18). For the reasons set forth below, the Petitioner's application is MOOT, as the Petitioner has already been granted leave to proceed in forma pauperis in this case (D.E. 8).¹

On March 21, 2007, Petitioner filed his first application to proceed in forma pauperis in this action (D.E. 7). Petitioner's

¹On June 27, 2007, Magistrate Judge Brian L. Owsley signed a "Memorandum and Recommendation," (D.E. 21) recommending that this Court deny Petitioner's application to proceed *in forma pauperis*. This Court, however, DECLINES TO ADOPT the Magistrate's Memorandum and Recommendation and substitutes this Order in its place.

application was granted by Magistrate Judge Brian L. Owsley on March 21, 2007. (See D.E. 8, \P 2, "Based on the information provided in the pending motion, petitioner's motion to proceed in forma pauperis, (D.E. 7) is GRANTED.").

On June 18, 2007, Petitioner filed his <u>second</u> application to proceed *in forma pauperis*, which is currently before this Court (D.E. 18). Petitioner has filed this second application in connection with an appeal to the United States Court of Appeals for the Fifth Circuit.²

As noted above, Petitioner has already been granted leave to proceed in forma pauperis in the above-styled action (D.E. 8). Petitioner does not require a new order granting him leave to proceed in forma pauperis on his appeal. See Fed. R. App. P. 24(a)(3) (emphasis added) (unless a statute provides otherwise or the district court has certified that the appeal is not taken in good faith, "[a] party who was permitted to proceed in forma pauperis in the district-court action ... may proceed on appeal in forma pauperis without further authorization"). Accordingly, Petitioner's second application to proceed in forma pauperis (D.E. 18) is MOOT, as the Petitioner seeks relief that has already been

²Petitioner filed his "Notice of Appeal" on June 18, 2007 (D.E. 17).

 $^{^{3}}$ This Court notes that it makes no finding as to whether Petitioner's appeal (D.E. 17) is "not taken in good faith". Fed. R. App. P. 24(a)(3)(A).

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GRANTED by a previous court order.

SIGNED and ENTERED this the 28th day of June, 2007.

♥ Janis Graham Jack

United States District Judge